

### **REMARKS**

This Amendment and Response is in response to the *Non-Final* Office Action of October 1, 2002, where the Examiner has rejected claims 1-8, 10-18, 21 and 22, and has objected to claims 9, 19 and 20. By the present amendment, claims 1, 2, 4, 6, 8, 10, 11, 13, 14 and 18 have been amended, and claims 9, 15, 19 and 20 have been cancelled. After the present amendment, claims 1-8, 10-14, 16-18 and 21-22 are pending in the present application. An early Notice of Allowance for pending claims 1-8, 10-14, 16-18 and 21-22 in view of the following remarks is respectfully requested.

#### **A. Rejection of Claim 15 under 35 USC §112, ¶ 2**

The Examiner has rejected claim 15, under 35 USC §112, ¶ 2, as being indefinite for being dependent upon claim 16, rather than claim 14. By the present amendment, applicant has cancelled claim 15. Accordingly, it is respectfully submitted that the Examiner's rejection of claim 15 has been rendered moot.

#### **B. Rejection of Claims 1-8 and 11-17 under 35 USC §102(b)**

The Examiner has rejected claims 1-8 and 11-17, under 35 USC §102(b), as being anticipated by Eastmond, et al. (USPN 5,355,242) ("Eastmond").

Applicant respectfully submits that Eastmond fails to disclose, teach or suggest "each photo-sensor within the array of the at least two photo-sensors detects the optical infrared signals within a predetermined portion of the solid angle and generates an output

signal,” as recited in amended claim 1. It is respectfully submitted that the Examiner’s rejection does not also indicate where and how Eastmond discloses this element of claim 1.

However, regardless of the above-referenced distinction between Eastmond and claim 1 of the present invention, applicant acknowledges the Examiner’s statements that claims 9, 19 and 20 would be allowable if rewritten in independent form. To this end, applicant has amended claim 1 to include limitations similar to claims 19 and 20, and has cancelled claim 9. Claim 1, as amended, in part reads: “a photo-sensor selection control circuit configured to receive the output signal of each photo-sensor within the array of the at least two photo-sensors and to suppress the output signal of each photo-sensor within the array of the at least two photo-sensors that fails to meet at least one of a predetermined pulse width and frequency thresholds.” Accordingly, applicant respectfully submits that claim 1, as amended, and its dependent claims 2-8 and 11-13, should be allowed at least for similar reasons that the Examiner has found claims 19 and 20 to be in condition for allowance.

In addition, by the present amendment, applicant has amended claim 14 to include limitations similar to those of claims 19 and 20. Accordingly, applicant respectfully submits that claim 14, as amended, and its dependent claims 16-17, should be allowed at least for similar reasons that the Examiner has found claims 19 and 20 to be in condition for allowance.

**C. Rejection of Claim 10 under 35 USC §103(a)**

The Examiner has rejected claim 10, under 35 USC §103(a), as being unpatentable over Eastmond.

Applicant respectfully submits that claim 10 depends from claim 1, as amended. Accordingly, claim 10 should be allowed at least for similar reasons stated above in conjunction with patentability of claim 1, as amended.

**D. Rejection of Claims 18 and 21-22 under 35 USC §103(a)**

The Examiner has rejected claims 18 and 21-22, under 35 USC §103(a), as being unpatentable over Nakamura, et al. (USPN 5,557,443) ("Nakamura"). Applicant respectfully disagrees; however, in order to expedite the prosecution of the present application, applicant has amended claim 18 to include limitations similar to those of claims 19 and 20. The Examiner has stated that claims 19 and 20 would be allowable if rewritten in independent form. Accordingly, applicant respectfully submits that claim 18, as amended, and its dependent claims 21 and 22, should be allowed at least because the Examiner has found claims 19 and 20 to be in condition for allowance.

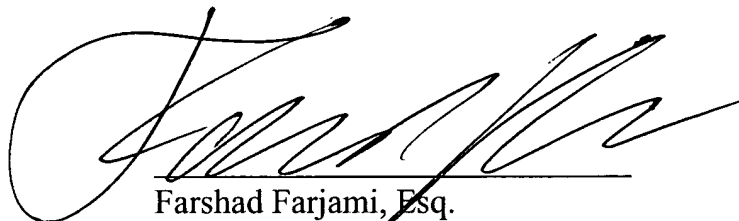
**E. Conclusion**

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 1-8, 10-14, 16-18 and 21-22 pending in the present application is respectfully requested.

Applicant would like to advise the Examiner of a recent change in the attorneys of record. Applicant respectfully requests that all correspondence regarding the present application be made to the address shown below.

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Respectfully Submitted,  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "First Class Mail Post Office to addressee" Service under 37 C.F.R. Sec. 1.10 addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on 5/11/2005

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